

FILED

APR 28 2025

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY MDL  
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TERRENCE BREWER, J.D.  
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Plaintiff, Pro se

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TERRENCE BREWER,

Plaintiff,

vs.

CALIFORNIA STATE BAR; BOARD OF  
TRUSTEES; COMMITTEE OF BAR  
EXAMINERS; and THEIR AGENTS IN THEIR  
OFFICIAL CAPACITY; and DOES 1 through 50,  
inclusive

Defendants.

) Case No. 2:23-CV-00860-TLN-JDP  
)  
) PLAINTIFF'S OPPOSITION TO  
) DEFENDANT'S SECOND  
) MOTION TO DISMISS: MOTION  
) TO STRIKE; DECLARATION  
) ISO  
)  
) Date: May 22, 2025  
) Time: 10:00 am  
) Judge: Hon. Jeremy D. Peterson  
) Department: 13<sup>th</sup> Floor  
)  
)

Pursuant to LR 230 (c), (d), (e); and FRCP 12 (f), Plaintiff opposes Defendant's Second Motion to Dismiss and moves to strike said Motion.

This Opposition is based on the Memorandum of Points and Authorities and Declaration of Terrence Brewer filed herewith, the pleadings and papers on file herein, and upon such other evidence or argument as may be presented to the Court at the time of the hearing.

Respectfully submitted,

Dated: April 28, 2025

TERRENCE BREWER

By:

  
TERRENCE BREWER, J.D.

Plaintiff, Pro se

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**Plaintiff, Pro se**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

TERRENCE BREWER,

) Case No. 2:23-CV-00860-TLN-JDP

**Plaintiff,**

) **MEMORANDUM OF POINTS  
AND AUTHORITIES ISO  
MOTION TO STRIKE  
DEFENDANT'S SECOND  
MOTION TO DISMISS**

CALIFORNIA STATE BAR; BOARD OF TRUSTEES; COMMITTEE OF BAR EXAMINERS; and THEIR AGENTS IN THEIR OFFICIAL CAPACITY; and DOES 1 through 50, inclusive

- ) Date: May 22, 2025
- ) Time: 10:00 am
- ) Judge: Hon. Jeremy D. Peterson
- ) Department: 9<sup>th</sup> Floor

## Defendants.

) Department: 9<sup>th</sup> Floor

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## **I. Procedural Background:**

On August 1, 2023, Defendant filed their First Motion to Dismiss (“FMTD”) raising the following issues: subject matter jurisdiction; failure to state a claim, sovereign immunity, and the *US v. Georgia* test.

This Court sustained Defendant's Motion as to the state law claims but overruled as to Plaintiff's ADA retaliation claim; and granted leave to amend for his ADA interference claim.

On April 5, 2024, Plaintiff filed his Second Amended Complaint (“SAC”). Subsequently, Defendant requested a stay while they initiate their interlocutory appeal.

1       On June 11, 2024, Defendant appealed to the Ninth Circuit following this Court denying  
 2 their FMTD.

3       On January 15, 2025, the Ninth Circuit issued a non-published memorandum – essentially  
 4 denying Defendant’s appeal – and remanded the case back to this Court.

5       On April 1, 2025, this Court ordered that “Defendant’s shall file a response to Plaintiff’s  
 6 Second Amended Complaint [ECF No. 36], and Motion for Preliminary Injunction [ECF No. 53]  
 7 by 4/17/2025.”

8       On April 17, 2025, Defendant filed their Second Motion to Dismiss (“SMTD”) raising the  
 9 same and/or substantially similar issues as raised in their FMTD; as well as issues they could have  
 10 previously raised.

11      Notably missing from the SMTD was a declaration signed under penalty of perjury that this  
 12 Motion is FRCP Rule 11 compliant, and not submitted for any improper purpose.

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## II. Motion to Strike:

15      Pursuant to Federal Rule of Civil Procedure Rule 12 (f), the court “may strike from a  
 16 pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”  
 17 The function of a 12 (f) motion to strike is to avoid the expenditure of time and money that arise  
 18 from litigating spurious issues by dispensing with those issues prior to trial. [*Whittlestone, Inc. v.*  
*Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010) (internal quotations omitted)].

20      Pursuant FRCP Rule 12 (g): “Except as provided in Rule 12(h)(2) or (3), a party that  
 21 makes a motion under this rule must not make another motion under this rule raising a defense or  
 22 objection that was available to the party but omitted from its earlier motion.”

23      “There is also a consolidation requirement for subsections (b)(2) through (b)(5). Each of  
 24 the bases “then available” to a party must be stated with the other bases in that party’s motion.”  
 25 [Rule 12(g); *Evangelistic Outreach Center v. General Steel Corp.*, 181 N.C. App. 723, 725  
 26 (2007)].

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1       Here, Defendant raises the same and/or substantially similar issues as raised in their  
2 FMTD. As noted, their FMTD was denied in part and the Ninth Circuit essentially denied their  
3 appeal, with optional instructions on remand.

4       Additionally, to the extent Defendant's arguments in their SMTD might differ from the  
5 FMTD, they are substantially similar, with minor semantic differences. This clearly shows  
6 Defendant's arguments are at best redundant and immaterial, if not intentionally made in bad faith.

7       Moreover, any additional issues Defendant may have raised in their SMTD should be  
8 stricken as they must have been raised in their first pleading i.e. FMTD. Thus, Defendant waived  
9 these additional defenses.

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### III. Conclusion:

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For the forgoing reasons, the Court should strike Defendants response as being an  
insufficient defense and/or redundant, immaterial, impertinent, or scandalous, based on their  
attempt to re-litigate issues that have been adjudicated by this Court, and affirmed by the Ninth  
Circuit. Further, the Court should order Defendant to promptly file an *answer* to the SAC and  
subsequently order mandatory disclosures pursuant to FRCP Rule 26 (a).

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February 2023 exam.

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Respectfully submitted,

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Dated: April 28, 2025

TERRENCE BREWER

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By:

  
TERRENCE BREWER, J.D.

Plaintiff, Pro se

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## **DECLARATION OF TERRENCE BREWER**

I, Terrence Brewer, declare:

1. I am the Plaintiff in this action. I have personal knowledge of the matters stated herein and if called as a witness, I could and would testify thereto.

2. This declaration is submitted in support of Plaintiff's (my) Opposition to Defendant's Second Motion to Dismiss, submitted herewith, and is not for any improper purpose.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on this 28<sup>th</sup> day of April, 2025, in Sacramento, California.



## TERRENCE BREWER, J.D.

1 **Terrence Brewer v. California State Bar, et. al.**

2 United States District Court  
3 Easter District of California  
4 Case No: 2:23-CV-00860-TLN-JDP

5 **PROOF OF SERVICE**

6 I am employed in Sacramento County, California and am over eighteen (18) years of age and not  
7 a party to this action or proceeding; my business address is 4748 Whitney Ave, Carmichael, CA 95608.

8 I am readily familiar with the business practice at my place of business for collection and  
9 processing of correspondence for mailing with the United States Postal Service. Correspondence so  
10 collected and processed is deposited with the United States Postal Service that same day in the ordinary  
11 course of business.

12 On April 28, 2025, I served true copies of the following document(s):

13 1) PLAINTIFF'S OPPOSITION TO DEFENDANT'S SECOND MOTION TO DISMISS:  
14 MOTION TO STRIKE

15 \_\_\_\_\_ (By Mail): By placing a true copy thereof enclosed in a sealed envelope with postage thereon  
16 fully prepaid, in accordance with the above business practice, as addressed below.

17 XX \_\_\_\_\_ (By Email): By transmitting an email copy of the same, to the email address listed below.

18 \_\_\_\_\_ (By Facsimile): By transmitting a facsimile copy of the same, to the number listed below.

19 \_\_\_\_\_ (By Overnight Mail/Express Delivery): By placing a true copy thereof enclosed in a sealed  
20 envelope, in accordance with the above business practice, and arranging for overnight delivery of  
21 said envelope to the person(s) as addressed below:

22 Jean Krasilnikoff  
23 Assistant General Counsel  
24 180 Howard St.  
25 San Francisco, CA 94105  
26 jennifer.ko@calbar.ca.gov

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
true and correct.

Executed this 28th day of April 2025, at Sacramento, California.



Terrence Brewer, J.D.